



## NASHVILLE ELECTRIC SERVICE

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May 6 , 1997

The Honorable John D. Dingell, Ranking Member  
Commerce Committee Democratic Office  
564 Ford House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Dingell:

In response to your April 9 letter, we thank you for giving us this opportunity to provide input on the future of the electric utility industry. Based on my thirty years' experience in the utility industry, I believe that while we can learn much from the deregulation of banking, natural gas, railroads, airlines, and telecommunications, the restructuring of the electric industry will be more complex and difficult than any that has gone before. However, if we are given reasonable oversight and flexibility to operate in a competitive environment, restructuring can provide a wide range of opportunities to provide our customers with greater value.

1. What concerns does your company have in connection with increased competition in wholesale markets? If state(s) you serve have adopted, or are considering adopting retail competition, what issues have been most important to you and what, if any, concerns do you have with respect to state action?

Nashville Electric Service (NES) is an all-requirements distributor of the Tennessee Valley Authority (TVA) under long term contract. Our current concerns in relation to increased competition in wholesale markets are future open access to wholesale markets, the potential rate impact of stranded cost recovery, and the retention of our major retail customers.

Both public and private utilities should have unrestricted open access to the wholesale power markets. The current Federal Energy Regulatory Commission (FERC) orders 888A and 889A have not altered the restrictions imposed on TVA, our sole supplier, by the 1959

amendment to the TVA Authorization Act. The 1992 National Energy Policy Act has also exempted TVA from mandated open access for its current wholesale customers. Nor does any legislation in place or proposed address the all requirements provision of our contract with TVA. The result has been a bar to wholesale competition in the Tennessee Valley.

Prior to the implementation of retail competition, we must break down these barriers because a lack of competition at the wholesale level will ensure that retail customer choice will fail. The best path to full competition in the electric industry is wholesale first, then retail.

Tennessee has not passed, nor is considering state legislation on retail competition. This state is in a unique position since with only one exception, Kingsport Utility, an AEP subsidiary, all electric power is purchased from TVA. TVA is both supplier and regulator for the distributors without state or federal oversight on rates. Any change in that status would require action by the U. S. Congress.

2. What challenges would your company face if Congress mandated retail competition by a date certain? How would this affect your rights and responsibilities? What issues would have to be addressed, including but not limited to modifications to the tax laws, for you to successfully make the transition? What consequences would result if such issues are not specifically addressed, what interests would be affected, and how?

The major challenges to NES relate primarily to resources. There would be costs incurred in re-engineering and transitioning existing metering equipment, customer information software, and customer billing software in order to be able to provide systems that could support retail competition.

This would in essence equate to an unfunded mandate since the costs would have to be borne by our existing rate payers. The primary issue would be appropriately funding the necessary modifications to the existing infrastructure.

Under those circumstances, NES would still be a wires company and would fulfill that role. A reasonable pricing structure would have to be established to recover actual costs incurred to serve the ultimate customers.

In regard to future modifications of the tax laws, the primary consideration is maintaining the tax exempt status of our existing bond issues. When retail competition is instituted, current private use restrictions should not apply to facilities paid for with tax exempt bonds issued prior to restructuring. Also, as long as the investor owned utilities have the ability to issue tax exempt financing for special uses and collect “phantom taxes” by deferring tax liabilities into an indefinite future, public power should retain the ability to fund future capital improvements with tax exempt financing.

Another major issue for NES and the other municipal utilities in Tennessee is the issue of open records. Under Tennessee law all records of government entities such as municipal utilities including customers’ personal information, energy consumption, and credit history are open. Such records for investor owned utilities and electric cooperatives are not open to the public, a distinct advantage in a competitive environment.

And finally, we believe that it is essential that industry restructuring should benefit all classes of customers, not only the large industrial and commercial users.

3. Several states have either adopted or are considering securitization plans to address stranded cost recovery as part of a state retail competition plan. Whose interests are served by such an approach, and what if any risks are posed and for whom?

Many of the securitization plans that NES has reviewed address stranded cost recovery by spreading the time frame over which the cost can be recovered using a financing transaction. Such plans provide a form-over-substance remedy for the customers serviced by the utility

because those customers do not receive real rate reduction from retail competition until the securities related to the transaction are paid off.

Such an approach serves the financial community and political interests but there is no real economic benefit over the long term for the consumers. The consumers are at risk because they are forced to participate in a transaction which imposes the long term cost of implementing retail competition with no guarantees of ever seeing any real savings from such a plan.

Furthermore, in the case of TVA, securitization does not affect the fundamental issue of ensuring that only costs that were prudently incurred should be recovered. TVA has not been subjected to a prudence review of their construction programs by either state regulators or FERC.

Although not directly related to securitization, there also is the issue of how TVA will handle stranded costs. The fact is that much of TVA's over-ambitious nuclear construction program was predicated on signed contracts with the Department of Energy for several thousand megawatts of power. When those contracts were abrogated by a settlement between DOE and TVA, several of the plants under construction were not needed. If as the record suggests, the DOE settlement was for a small percentage of the actual cost of the investments, it is unthinkable that rate payers in the Tennessee Valley should now absorb those costs on behalf of the federal government.

4. Some states have argued that Congress should enact "reciprocity" requirements barring sellers in states which have not adopted retail competition from access to markets in states which have done so. Do you believe such legislation is warranted, and why? What consequences would ensue if Congress does not enact "reciprocity" provisions?

We believe that if Congress does not mandate retail competition by a date certain it should enact a reciprocity requirement that would bar sellers in states which have not adopted retail competition from access to markets in states which have done so. Such legislation is warranted

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to prevent states from building legislative walls around their utilities while allowing those same utilities to unfairly improve their financial position at the expense of utilities in states that have adopted retail competition.

My views are not only from the perspective of the chief executive officer of one of the nation's ten largest public power companies, but also from my prior experience as a senior officer of one of the largest investor owned utilities, and the president of an independent power producer. Please feel free to call on me for further information at any time, or to provide testimony at any future hearings.

Very truly yours,

A handwritten signature in black ink, reading "M. C. Cordaro". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Matthew C. Cordaro, Ph.D.  
President & CEO

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